



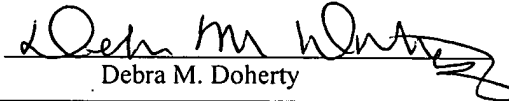
PATENT
Attorney Docket No.: AHC-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANT(S): Edward C. Carman, Jr. et al. CONF. NO. 9776
SERIAL NO.: 10/081,273 GROUP NO.: 3772
FILING DATE: February 21, 2002 EXAMINER: Pham, Huong
TITLE: MULTIPLE USE HANDLE SUPPORT FOR DISTRIBUTING FORCES

CERTIFICATE OF FIRST CLASS MAILING UNDER 37 C.F.R. 1.8

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Debra M. Doherty

MAIL STOP APPEAL BRIEF-PATENTS
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY TO EXAMINER'S ANSWER

Sir:

This is in reply to the Examiner's Answer dated February 21, 2008.

Status of Amendments After Final

The stated reason for not entering the proposed amendments filed on April 26, 2007, which sought to delete the phrase "or the like," is that such amendment "...would change the scope and structural limitations of claims 1, 18, 33, and therefore would need further consideration and/or search." It is appellants, position that the nature of the change does not change the scope and would require no further search. It would require no more consideration than to recognize that the proposed change simply would comply with the examiner's objection. Refusal to enter the amendment is considered to be unreasonable. Similarly, the examiner's refusal to enter the amendment to claims 40 and 41 to delete "second axis" and "third axis" was improper. Deletion of those phrases would not broaden the claims. There has been no showing

that deletion of those phrases would require any additional searching or other effort by the examiner beyond a reading of the claim.

Some comment is appropriate as to claim 37. Appellants were under the misunderstanding that claim 37 had been amended to be consistent with the amendments made previously to claims 8 and 24, by which the helix was defined in terms of helix angle rather than helical pitch. The arguments presented with respect to claims 8 and 24 in the Appeal Brief were thought also to apply to claim 37. Upon re-reading the Appeal Brief and the prosecution history, applicants recognized that claim 37 had not been amended to include the "helix angle" terminology. Accordingly, appellants propose an amendment to claim 37 as follows:

37. (Currently Amended) The combination according to claim 33, wherein said helix is constructed with a ~~pitch that decreases from forward to rearward~~ helix angle that increases from forward to rearward.

Appellants request that upon the Board's decision of this appeal, if the rejection of claim 37 under 35 U.S.C. §112 is sustained, that the Board exercise its discretion to propose such amendment under 37 C.F.R. 41.50(c).

Claim Rejections – 35 U.S.C. §112

As to claims 1, 18 and 33, the Examiner's Answer appears to acknowledge that if appellants' proposed amendments to those claims were entered, that ground of rejection would be resolved. As to claim 37 while the present language of the claim is considered to satisfy the requirements of 35 U.S.C. §112, second paragraph, the proposed amendment that defines the invention in terms of helix angle instead of pitch should resolve the matter. It is noted that identical amendments made to claims 8 and 24 apparently were considered to satisfy the requirements of 35 U.S.C. §112.

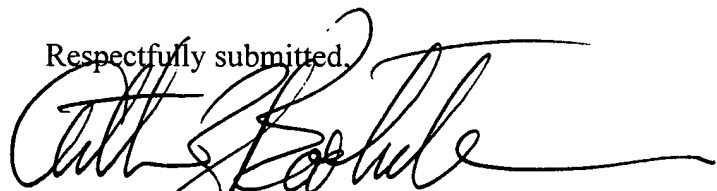
Claim Rejections – 35 U.S.C. §102

Most of the analysis in the Examiner's Answer is considered to have been dealt with in the Appeal Brief. Some reply is considered appropriate with respect to the rejection of claims 12-14 and 17. Claims 12-14 include limitations to the orientation of the brace to allow the user's wrist to twist and flex in a defined manner. The rejection does not point to any part of the

Stephens reference that would satisfy those limitations. Rather, the rejection appears to be based on an argument that "...when a person with a small forearm (or a child) uses the [Stephens] brace, the wrist is capable of being free to flex as recited." In other words, the reasoning appears to be that if a child were given an adult sized Stephens cane or crutch, the child's wrist would be free to flex. Plainly that is an unreasonable interpretation. A child would not be expected to use an adult cane or crutch. Indeed, such misfitting of the device to a smaller user for whom it was not intended would seem to result in the Stephens device being unable to function as intended. The Stephens device is "particularly contoured to conform to the forearm and the wrist ..." in a predetermined supportive orientation (Stephens 5:48-52). By misfitting a Stephens cane or crutch to a small user to permit the claimed wrist flexure, the Stephens device would not perform its function. Not only does Stephens fail provide the ability for the user's wrist to flex as claimed, Stephens' objective is the opposite, to confine the wrist to prevent such movement. Thus, Stephens cannot anticipate.

As to claim 17, the examiner does not point to anything in Stephens that discloses the claimed seat that is substantially flat from forward to rearward without restraining side-to-side flexure of the wrist when the grip is grasped. This rejection relies on lines, prompted by appellants' disclosure that are arbitrarily drawn on one of the figures of Stephens in which a narrow sliver portion of what is otherwise a curved, contoured surface is outlined and is said to disclose the claimed seat. That is not a disclosure of Stephens. That is a distortion of Stephens made by drawing arbitrary lines solely for the purpose of attempting to anticipate one of the elements of appellants' claimed combination. It provides no basis for anticipation.

Respectfully submitted,



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Date: April 21, 2008